

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PROPOSED
ARM 2.59.1603, 2.59.1604, and)	AMENDMENT
2.59.1606 pertaining to state, county,)	
and municipal issues, corporate)	
bonds, and other approved)	NO PUBLIC HEARING
investments)	CONTEMPLATED

TO: All Concerned Persons

1. On December 30, 2009, the Department of Administration proposes to amend the above-stated rules.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on December 21, 2009, to advise us of the nature of the accommodation that you need. Please contact Wayne Johnston, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2918; TDD (406) 444-1421; facsimile (406) 841-2930; or e-mail to wjohnston@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

2.59.1603 STATE, COUNTY, AND MUNICIPAL ISSUES (1) through (3)(a) remain the same.

(b) The default requirements of (2)(c) must be met, and the obligations must have been rated in one of the four highest grades by a recognized national investment rating organization. ~~The rating organization must have been regularly and continuously engaged in rating state and municipal obligations for a period of not less than 10 years.~~ Other rating services may be used if the gradations are equivalent to those above, and the rating services are identified by the bank's investment policy.

(c) through (5) remain the same.

(a) The default requirements of (2)(c) must be met, and the obligations must have been rated in one of the four highest grades by a recognized national investment rating organization. ~~The rating organization must have been regularly and continuously engaged in rating state and municipal obligations for a period of not less than 10 years.~~ Other rating services may be used if the gradations are equivalent to those above, and the rating services are identified by the bank's investment policy.

(6) remains the same.

AUTH: 32-1-433, MCA

IMP: 32-1-424, 32-1-433, MCA

STATEMENT OF REASONABLE NECESSITY: A Montana financial institution notified the division that the current rule requirement for municipal revenue bonds to be rated by organizations that have been regularly and continuously engaged in rating such issues for at least ten years could unreasonably limit the institution's opportunities to invest in municipal issues. Municipal issues might be rated by smaller organizations with less than ten continuous years of rating history because the larger rating organizations' fees could be cost prohibitive.

The current rule already requires that the obligations be rated by a nationally recognized investment rating organization and so the public protection will not be adversely affected by elimination of the ten-year requirement. The Montana branch of the Federal Reserve Bank favors elimination of the ten-year requirement noting that the list of approved rating organizations on the Security and Exchange Commission web site includes some newer rating organizations with less than ten years of continuous engagement in rating bonds. The elimination of the ten-year requirement and addition of the sentence authorizing use of other rating services where the gradations are equivalent currently exist in other rules and would make this rule consistent with other rules relating to investments in corporate bonds, ARM 2.59.1604, and other approved investments, ARM 2.59.1606.

2.59.1604 CORPORATE BONDS (1) remains the same.

(2) These bonds must be investment grade, i.e., rated in one of the four highest grades by a recognized national investment rating organization. Other rating services may be used if the ~~graduations~~ gradations are equivalent to those above, and the rating services are identified by the bank's investment policy. Corporate bonds should be reviewed as necessary to assure the bank's board of directors that bond quality has not fallen below investment grade.

AUTH: 32-1-433, MCA

IMP: 32-1-424, 32-1-433, MCA

STATEMENT OF REASONABLE NECESSITY: In amending ARM 2.59.1604, the division realized this rule states "graduations" instead of "gradations." The proper term is gradation, not graduation. Therefore, the division proposes to amend this rule to reference equivalent gradations by rating agencies.

2.59.1606 OTHER APPROVED INVESTMENTS (1) through (1)(e) remain the same.

(f) banks may invest up to 20% of their capital and surplus, per issuer, in trust preferred securities. These bonds must be investment grade, i.e., rated in one of the four highest grades by a recognized national investment rating organization. Other rating services may be used if the ~~graduations~~ gradations are equivalent to those above, and the rating services are identified by the bank's investment policy.

AUTH: 32-1-433, MCA

IMP: 32-1-424, 32-1-433, MCA

STATEMENT OF REASONABLE NECESSITY: In amending ARM 2.59.1606, the division realized this rule states "graduations" instead of "gradations." The proper term is gradation, not graduation. Therefore, the division proposes to amend this rule to reference equivalent gradations by rating agencies.

4. Concerned persons may present their data, views, or arguments, concerning the proposed action to Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; or e-mailed to kosullivan@mt.gov. The data, views, or arguments must be received no later than 5:00 p.m., December 28, 2009.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, MT 59620-0546; faxed to the office at (406) 841-2930; or e-mailed to kosullivan@mt.gov. The requests and comments must be received no later than 5:00 p.m., December 28, 2009.

6. If the Division of Banking and Financial Institutions receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be six persons based on the number of state-chartered banks, which is currently 63 as of the publication of this notice.

7. An electronic copy of this Proposal Notice is available through the department's web site at <http://doa.mt.gov/administrativerules.mcp>. The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

8. The Division of Banking and Financial Institutions maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this division. Persons who wish to have their name added to the mailing list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding division rulemaking actions. Such written requests may be mailed or delivered to

Wayne Johnston, Division of Banking and Financial Institutions, 301 S. Park, Ste. 316, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; e-mailed to wjohnston@mt.gov; or may be made by completing a request form at any rules hearing held by the department.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

By: /s/ Janet R. Kelly
Janet R. Kelly, Director
Department of Administration

By: /s/ Michael P. Manion
Michael P. Manion, Rule Reviewer
Department of Administration

Certified to the Secretary of State November 16, 2009.